

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Casey McCann	Team: Squad #14	CCRB Case #: 201905204	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 06/09/2019 2:00 AM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 12/9/2020	EO SOL 7/26/2021	
Date/Time CV Reported Fri, 06/14/2019 4:49 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/14/2019 4:49 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Michael Cozier	01144	943112	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Christine Roman	18956	959153	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Michael Cozier	Abuse: Sergeant Michael Cozier entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.SGT Michael Cozier	Abuse: Sergeant Michael Cozier entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.SGT Michael Cozier	Abuse: Sergeant Michael Cozier threatened to arrest individuals.	§ 87(2)(b)
D.SGT Michael Cozier	Abuse: Sergeant Michael Cozier seized § 87(2)(b) s property.	§ 87(2)(b)

### Case Summary

On June 14, 2019, § 87(2)(b) filed this complaint with the CCRB via telephone.

On June 9, 2019, at approximately 2 a.m., Sergeant Michael Cozier, Police Officer Christine Roman, and several other officers, all of the 67<sup>th</sup> Precinct, arrived at § 87(2)(b) in Brooklyn, in regard to their suspicion that § 87(2)(b) was operating an unlicensed bottle club at the residence. Sgt. Cozier opened the gate surrounding § 87(2)(b) in Brooklyn and entered the backyard (**Allegation A: Abuse of Authority**, § 87(2)(g)). Sgt. Cozier then entered the home itself, which belonged to § 87(2)(b)'s grandmother, § 87(2)(b) (**Allegation B: Abuse of Authority**, § 87(2)(g)). Sgt. Cozier threatened to arrest individuals who were at the party (**Allegation C: Abuse of Authority**, § 87(2)(g)) and seized alcohol belonging to § 87(2)(b) from inside the house (**Allegation D: Abuse of Authority**, § 87(2)(g)).

PO Roman arrested § 87(2)(b) for an unlicensed bottle club, unlicensed warehouse of liquor storage, and an improper posting of a license. All of the charges were adjourned in contemplation of dismissal.

Body-worn camera footage of this incident was received and will be discussed in further detail below.

### Findings and Recommendations

#### Allegation (A) Abuse of Authority: Sergeant Michael Cozier entered § 87(2)(b) in Brooklyn.

§ 87(2)(g). The investigation established the following facts: § 87(2)(b) an event planner, hosted a party on June 8, 2019, into the early morning of June 9, 2019, at § 87(2)(b)'s house, located at § 87(2)(b). § 87(2)(b) promoted the party on her public Instagram page as well as posted flyers at other events she attended promoting the event. Sgt. Cozier saw § 87(2)(b)'s flyer at Rag Top Bar, a lounge within the 67<sup>th</sup> Precinct, several weeks prior to this incident. On June 9, 2019, at approximately 2 a.m., Sgt. Cozier and his special operations team arrived at § 87(2)(b) and entered the backyard, where there was a makeshift bar and menu listing alcohol prices. § 87(2)(b) who was behind the bar, entered § 87(2)(b) through the back door with a box containing the proceeds from the party. Sgt. Cozier followed after § 87(2)(b) into the house and recovered the proceeds of the party. PO Roman handcuffed and arrested § 87(2)(b). Sgt. Cozier seized cases of alcohol from inside the home.

§ 87(2)(b) provided a copy of the flyer she created (BR 01), which included the address of the “outdoor VIP style” party and listed advance ticket prices as \$25, with tickets costing more at the door. Tickets included complimentary wine and a buffet bar. The flyer also listed “a cocktail bar available.”

§ 87(2)(b) (BR 02) testified that she promoted the party on her Facebook page and passed out and posted flyers at other events she attended. § 87(2)(b)'s home is surrounded by a fence with a gate, which was closed during the incident. § 87(2)(b)'s cousin, was stationed behind the gate in order to collect the entrance fee for individuals paying at the door. § 87(2)(b)'s mother; § 87(2)(b)'s daughter; § 87(2)(b) and § 87(2)(b) were also at the party. The party primarily took place in the driveway and backyard where coolers and a bar were set up to serve drinks. While taking photographs with her friends, § 87(2)(b) saw five officers walk down the driveway into the yard.

Sgt. Cozier (BR 03) testified that while at Rag Top Bar for an unrelated incident, he saw a six-foot cutout promoting a party at § 87(2)(b), which advertised price for admission and a cocktail bar. Sgt. Cozier later performed social media searches in which he located § 87(2)(b)'s public Instagram page. Sgt. Cozier did not remember how he identified § 87(2)(b) as the promoter of the event. § 87(2)(b) had several pictures advertising a fee for food and cocktails at the event. Because the home was being used for monetary gain from the entrance fees and selling

alcohol, the home became a commercial establishment. As such, Sgt. Cozier and his team went to § 87(2)(b) to perform a business inspection. Upon his arrival, Sgt. Cozier saw several individuals drinking in the driveway and front of the house. Sgt. Cozier opened the gate and proceeded to the backyard with other members of his team.

PO Roman (BR 16) was interviewed regarding this incident and her testimony was generally consistent with Sgt. Cozier.

The curtilage of the home – the area immediately surrounding and associated with the home or the area that is related to the intimate activities of the home – is part of the home itself. The determination of whether an area falls within the home’s curtilage may be made by a reference to four factors: the proximity of the area claimed to be curtilage of the home, whether the area is included within an enclosure surrounding the home, the natures of the uses to which the area is put, and the steps taken by the resident to protect the area from observation of people passing by. People v. Theodore 114 A.D.3d 814 (2014) (BR 04).

Operations Order 3 (BR 05), issued by the NYPD on January 2, 2019, stipulates that when officers are investigating social events/parties in which a homeowner or promoter hosts a large number of people at a private residence which is not licensed by the New York State Liquor Authority to sell or serve alcoholic beverages, a determination should be made as to whether the event is open to the public, which could trigger enforcement based on the sale or service of alcoholic beverages.

According to an infographic distributed by the NYPD Legal Bureau Civil Enforcement Unit (BR 06) beginning in February 2019, if an event is open to the public, a police officer may enter the event and take enforcement.

§ 87(2)(g)

**Allegation (B) Abuse of Authority: Sergeant Michael Cozier entered § 87(2)(b) in Brooklyn.**

It is undisputed that Sgt. Cozier entered § 87(2)(b)’s home after § 87(2)(b) carried a box of cash away from the bar into the home.

§ 87(2)(b) testified that when Sgt. Cozier entered the backyard, § 87(2)(b) who had a wooden box filled with at least \$1,200 from entrance fees in his hands, walked up four back stairs and into the house, which led to a bedroom. § 87(2)(b) did not remember where § 87(2)(b) took the box from. Sgt. Cozier said, “That’s evidence,” rushed toward the back door, and entered the home. § 87(2)(b) refused to provide contact information for § 87(2)(b) and thus the investigation was unable to obtain a statement from him.

Sgt. Cozier testified that while he was speaking with § 87(2)(b) who confirmed she did not have a permit for the party, Police Officer Ricardo Martinez of the 67<sup>th</sup> Precinct, who was standing near the makeshift bar, told Sgt. Cozier that a female behind the bar had passed a wooden box with currency off to another individual, known to the investigation as § 87(2)(b). Sgt. Cozier then saw § 87(2)(b) walk into the house and followed him. Sgt. Cozier went inside the house because § 87(2)(b) was tampering with evidence of the unlicensed bottle club, as the party advertised tickets, alcohol was present, and there was no one-day permit. The door to the house led to a bedroom, where there were approximately five individuals. Sgt. Cozier recovered the money inside the house. § 87(2)(b) could have been arrested for tampering with evidence and obstruction of governmental administration because the officers were performing an inspection and he was obstructing by taking the money and “running off.” However, Sgt. Cozier only arrested § 87(2)(b) as she was the promoter of the party.

Sgt. Cozier's body-worn camera footage (BR 07-08) was consistent with his testimony. The footage shows that the back door to the house, which has a storm door in front of it, is closed. There is no one standing at the back door to prevent people from entering and § 87(2)(b) does not appear to unlock the door before entering (see time stamp on player <<01:00 – 01:54>>).

§ 87(2)(g)

**Allegation (C): Sergeant Michael Cozier threatened to arrest individuals.**

§ 87(2)(b) testified that as she was leaving the yard in handcuffs, Sgt. Cozier told all the guests, "Get out of the yard and if you don't get out, we're going to arrest you."

Sgt. Cozier's body-worn camera footage depicts him exiting the house after recovering the money § 87(2)(b) brought into the house. Sgt. Cozier tells individuals in the backyard to leave and says, "There's an unlicensed bottle club in this backyard right now, and if you live here and you want to stay here, that means you're throwing this party and you're going to go to jail for unlicensed bottle club" (see time stamps on player <<5:33 – 6:05>>).

Sgt. Cozier testified that he told the individuals in the yard they had to leave, as the officers were conducting an investigation. The individuals were compliant in leaving. Sgt. Cozier did not recall threatening to arrest anyone in the backyard, but testified that the individuals in the backyard could have been arrested for obstructing governmental administration (OGA) if they refused to leave the backyard. Upon reviewing his body-worn camera footage, Sgt. Cozier confirmed that residents of the house, especially the homeowner, could have been arrested for an unlicensed bottle club if the resident is eating or drinking food associated with the party.

A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act. N.Y. Penal Law § 195.05 (BR 15).

§ 87(2)(g)

**Allegation (D) Abuse of Authority: Sergeant Michael Cozier seized § 87(2)(b)'s property.**

It is undisputed that Sgt. Cozier seized cases of alcohol from inside the bedroom of § 87(2)(b)'s home, where he had originally entered to recover the money § 87(2)(b) removed from the bar.

§ 87(2)(b) testified that after she was released, she learned from § 87(2)(b) and § 87(2)(b) that officers went inside the house with garbage bags and collected all of the alcohol inside of the bedroom.

Sgt. Cozier's body-worn camera footage depicts him inside of the bedroom with other uniformed officers. § 87(2)(b) is in handcuffs. A female asks Sgt. Cozier, "What exactly are y'all doing?" to which Sgt. Cozier responds, "We're going to take the liquor that's part of this party and we're going to bring it outside." § 87(2)(b) says, "That liquor is not a part of the party." Sgt. Cozier then begins to take cases out of alcohol out of the bedroom and passes them to officers

standing outside (see time stamp on player <<11:15 – 12:40>>).

Sgt. Cozier testified that he took cases of alcohol from the bedroom because the room became part of the party when § 87(2)(b) entered the room with the money and because alcohol was sold at the party. Sgt. Cozier associated the alcohol inside the house with the party because of its proximity to the bar, which was approximately ten feet away. Sgt. Cozier did not associate the alcohol inside the house as part of the party for any other reason. The alcohol was vouchered and inventoried for destruction by the Department of Sanitation, which is procedural when alcohol is seized.

According to the property voucher prepared by PO Roman (BR 09), 110 unopened beer bottles, 65 unopened liquor bottles, and 35 unopened champagned bottles were vouchered as arrest evidence.

Where the initial intrusion that brings the police within plain view of an article of incriminating character, not by warrant, but by one of the recognized exceptions to the warrant requirement, the seizure is also legitimate. Coolidge v. New Hampshire, 403 U.S. 443 (1971) (BR 10).

The constitutionality of a plain view seizure “must turn on the legality of the intrusion that enables [police] to perceive and physically seize the property in question.” People v. Brown, 96 N.Y.2d 80 (2001) (BR 11).

§ 87(2)(g)

#### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 12).
- Sgt. Cozier has been a member of service for 13 years and has been a subject in six CCRB complaints and 11 allegations, one of which was substantiated:
  - 201300682 involved a substantiated allegation of a retaliatory summons. The Board did not recommend discipline and the NYPD imposed instructions.

§ 87(2)(g)

#### Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of September 13, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (BR 13).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 14

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: Cassandra Fenkel IM Cassandra Fenkel 04/28/2020

Signature

Print Title & Name

Date

Reviewer:

Signature

Print Title & Name

Date